



**STATEMENT BEFORE THE  
SUBCOMMITTEE ON CONSERVATION, CREDIT,  
RURAL DEVELOPMENT, AND RESEARCH  
COMMITTEE ON AGRICULTURE  
U.S. HOUSE OF REPRESENTATIVES  
HEARING ON  
METHYL BROMIDE: ASSESSMENT OF THE  
CRITICAL USE EXEMPTION PROCESS  
UNDER THE MONTREAL PROTOCOL**

**submitted by**

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**on behalf of the**

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AMERICAN NURSERY & LANDSCAPE ASSOCIATION  
FLORIDA NURSERY, GROWERS & LANDSCAPE ASSOCIATION  
CALIFORNIA CUT FLOWER COMMISSION**

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Chairman Lucas, Ranking Member Holden, and Members of the Committee, we thank you for this opportunity to present joint testimony on behalf of the nursery, landscape and floriculture industry of the U.S. The topic of continued availability of methyl bromide to U.S. nursery and floriculture growers is of huge importance to our industry.

We are complying with the Montreal Protocol. However, our industry is in danger because we are not being treated fairly under the terms of the Treaty. We have demonstrated our compliance, and we ask Congress to act to ensure that U.S. interests are protected under the terms of the Montreal Protocol.

At the outset, I want to thank not only the members of this Committee and its staff, but also those other members who have been particularly supportive throughout this lengthy and frustrating process. Congressman George Radanovich and his staff have worked for legislation that we believe will solve the problem. Congressmen Darrell Issa and Mark Foley gave up part of their Thanksgiving holidays to be with us at the international meeting of the parties last fall in Prague, and not only were there, but were tireless and indomitable in their attempts to understand and address with the problems we are facing. Congressman Roy Blunt and Mark Anderson, of his staff, have been unyielding in their determination to help us. EPA and State Department staff have worked diligently on behalf of the U.S. – facing some very grave political constraints. We very greatly appreciate all of your support in making an effort to understand and address the problems associated with the implementation of the Montreal Protocol.

The Society of American Florists (SAF) is the national trade association representing the entire floriculture industry, a \$19 billion component of the U.S. economy. Membership includes about 10,000 small businesses, including growers, wholesalers, retailers, importers and related organizations, located in communities nationwide and abroad. The industry produces and sells cut flowers and foliage, foliage plants, potted flowering plants, and bedding plants. Our products compete in an international marketplace. U.S. growers, whose ability to compete in that international marketplace is often at stake, are very concerned that their rights under the Montreal Protocol be supported by the U.S. government. Methyl bromide is a critical management tools in many kinds of production, particularly in Florida and California.

The American Nursery & Landscape Association (ANLA) is the national trade association for the nursery and landscape industry -- producers, retailers and landscapers focusing primarily on trees, shrubs and other woody ornamentals, perennial plants, and bedding plants. ANLA represents 2,500 production nurseries, landscape firms, retail garden centers and horticultural distribution centers, and the 16,000 additional family farm and small business members of the state and regional nursery and landscape associations. ANLA's grower members are estimated to produce about 75 percent of the nursery crops moving in domestic commerce in the U.S. that are destined for landscape use. Methyl bromide is a critical pest management tool for production of many types of planting stock, such as the fruit trees and strawberry plants grown for America's orchards and farms.

The Florida Nursery, Growers & Landscape Association (FNGLA) represents Florida's nursery and landscape industry, the largest-value crop industry in the state. Founded in 1952, FNGLA is the nation's largest state nursery/landscape association with nearly 2,400 member production nurseries, landscape firms, retail garden centers and horticultural suppliers.

The California Cut Flower Commission (CCFC) is a non-profit public corporation formed in October 1990 by and for growers, under the laws of the State of California. Its mission is to provide a unified effort by growers to enhance the performance of the California cut flower and greens

industry, by providing promotion, marketing, government education, and research on behalf of the industry. It was voted into being by a referendum of cut flower growers and is financially supported by grower assessments on the sales of fresh cut flowers and cut greens.

In crop value, nursery and greenhouse crops have surpassed wheat, cotton, and tobacco and are now the third largest plant crop – behind only corn and soybeans. Nursery and greenhouse crop production now ranks among the top five agricultural commodities in 24 states, and among the top 10 in 40 states. Growers produce thousands of varieties of cultivated nursery, bedding, foliage and potted flowering plants in a wide array of different forms and sizes on 1,305,052 acres of open ground and 1,799 million square feet under the protective cover of permanent or temporary greenhouses, across the United States.

## **I. U.S. ORNAMENTALS GROWERS ARE IN COMPLIANCE WITH THE TERMS OF THE MONTREAL PROTOCOL -- BUT MAY NOT RECEIVE THE CRITICAL USE EXEMPTIONS TO WHICH THEY ARE ENTITLED UNDER THE PROTOCOL.**

The United States is a signatory to the Montreal Protocol. Under its terms, U.S. growers are entitled to a Critical Use Exemption (CUE) if practicable and economical alternatives are not available, efforts have been made to find those alternatives, and a significant market disruption would result from lack of availability of methyl bromide. U.S. growers have complied with the terms of the treaty. We are entitled to our exemption.

The U.S. industry's requests for a Critical Use Exemption are prepared in great detail and with considerable effort and expense. They are exhaustively reviewed by our government, adding even more burden to the process. After all that, we are subjected to non-scientific criticism and cuts at the international level. The process at the international level appears to be political, not scientific -- and U.S. growers are in danger of irrevocable harm.

U.S. growers are in compliance with the terms of the Montreal Protocol. When we have economical and practical alternatives to methyl bromide, we use them. We have made our best efforts, and invested hundreds of thousands of dollars in research to find workable alternatives.

But today, we are faced with an international, political process which is attempting to circumvent the Critical Use Exemption process to *force* U.S. growers to discontinue the use of methyl bromide -- whether they have alternatives or not. It will force U.S. growers out of business, and those who do not go out of business will be non-competitive in the global marketplace. We believe that the agenda at the international level is to work deliberately against U.S. interests.

We respectfully request that the U.S. Congress act, quickly and forcefully, to protect our rights under that treaty.

## **II. THE MONTREAL PROTOCOL CRITICAL USE EXEMPTION (CUE) PROCESS IS SIMPLY NOT WORKING AT THE INTERNATIONAL LEVEL. THE U.S. CONGRESS MUST ACT TO PROTECT U.S. GROWERS.**

The United States' end-users of methyl bromide are happy to live by the terms of the Montreal Protocol. However, the terms of the treaty that the U.S. signed are getting lost. It is necessary for the U.S. government to ensure that its agricultural community is protected under the Protocol terms our government agreed signed. The treaty is becoming a "dynamic" treaty --it literally is being changed outside the parties' approval process.

The U.S. cut flower and foliage industry is in complete compliance with the Montreal Protocol and the terms of its Critical Use Exemption Process. While the Montreal Protocol deals with the phase-out of the production of methyl bromide, the Protocol also clearly provides for a Critical Use Exemption. In short, an application can be made for continued use of methyl bromide if efforts have been made to find alternatives. If feasible and economical alternatives are not available, then commodities can continue using methyl bromide.

Yet this provision is not being followed in the implementation of the Treaty. Despite being in compliance with the Protocol, the U.S. is being forced to take arbitrary cuts with absolutely no scientific reasoning and no justification under the Protocol terms. And although the U.S. State Department, the Department of Agriculture, and the Environmental Protection Agency are working diligently on behalf of U.S. growers, their voices are simply being ignored. That is not the Protocol that the U.S. signed, and the U.S. government must not accept it.

We are not suggesting that the U.S. withdraw from the Protocol – just that we ensure that the Protocol's terms are being followed. We believe that Congress must act to safeguard U.S. growers' rights, by passing the legislation introduced by Congressman George Radanovich. Only in this way can Congress tell the rest of the world that the U.S. *will* comply with the terms of the treaty – but that the U.S. *will not* submit to the political machinations of other members of the international body which are deliberately undermining U.S. interests.

In November, 2004, 36 Members of Congress signed a letter to President Bush which stated:

"The Parties have decided to substantially reduce the amount of the American CUE nomination. It was done so without establishing a reliable scientific basis for such adjustment. The actual review time devoted by the United Nations Environment Program (UNEP), including its Advisory Committee, is negligible. However, that does not prevent the Parties from arbitrarily reducing the U.S. nomination amount.

"The CUE process under the Montreal Protocol is broken and we want to work with you to address this problem. We cannot continue to abide by a system in which subjective judgments by foreign governments determine whether the legitimate needs of our food and agriculture industries will be met." [emphasis added]

We are grateful to all of the Representatives who signed that letter, and for Representative George Radanovich's introduction of legislation which acts to safeguard U.S. growers' rights. The U.S. government agreed to the terms of the Montreal Protocol. We, the U.S. growers, have followed all of the requirements of the Protocol. **PLEASE MAKE SURE THAT WE ARE PROTECTED UNDER THOSE TERMS.** That is all that we are asking.

### III. THE BASIC CUE PROCESS

1. U.S. growers prepare a very detailed application for EPA, setting out their efforts to find alternatives, the reasons why alternatives don't work, if in fact they do not, and the economic reasons why methyl bromide must continue to be used.
2. EPA reviews and as necessary supplements this information and ensures that the U.S. application is complete and accurate. EPA is exhaustive and very diligent in its reviews. It should be noted that U.S. applications are held up to other countries as providing excellent information and justification.

3. State Department submits the application in a timely fashion to the Secretariat for the Montreal Protocol.

4. The U.S. application and all other applications are reviewed by the "Methyl Bromide Technical Options Committee" (MBTOC) and by the full "Technology and Economic Assessment Panel" (TEAP).

5. MBTOC or TEAP may return to the U.S. for additional questions before making a recommendation to the full meeting of the parties.

6. Finally, and often after further negotiations behind closed doors, the full meeting of the parties votes on the application, giving great weight to the recommendations of MBTOC and TEAP (for the 2005-2006 ornamentals application, this occurred last Thanksgiving at the Prague meeting of the parties).

In the case of the ornamentals application for 2005-2006, MBTOC-TEAP determined that they were "unable to assess" it -- requiring further submissions and negotiations by the U.S. government. As a result, the entire ornamentals application for 2005-2006 will be reviewed again, based on the supplemental information and application provided by the U.S., at the MBTOC-TEAP meetings in April, preceding the Extraordinary Meeting of the parties scheduled for June, 2005.

For calendar year 2006, the U.S. nominated 37 percent of baseline (baseline is the amount used in 1991) for U.S. industries' total requests. As discussed in Section IV below, major political discussions and negotiations occurred during last fall's Prague meeting. As a result, the Parties approved 27 percent of the baseline nomination, and the remaining 10 percent will be assessed at a one-day Extraordinary meeting in conjunction with the Working Group in June, 2005.

In its 2007 nomination, the U.S. requests 29 percent of baseline -- a huge cut, which EPA says is "largely due to the introduction of alternatives in the marketplace." We are greatly concerned about this apparent downward trend, which we are discussing with EPA and which we will discuss later during this testimony. In November 2005, the Parties will meet and review the MBTOC recommendations for 2007.

**IV. THE CUE PROCESS, WHICH IS SUPPOSED TO BE BASED ON SOUND SCIENCE, IS INSTEAD BASED ON INTERNATIONAL POLITICS. IT IS POLITICALLY, NOT SCIENTIFICALLY, DRIVEN. THE "RULES" AT THE INTERNATIONAL LEVEL ARE NOT TRANSPARENT, NOT WELL-DEFINED, AND ARE ACTUALLY REDEFINING THE MONTREAL PROTOCOL -- WITHOUT OFFICIAL AGREEMENT OR OVERSIGHT BY THE SIGNATORY NATIONS.**

**A. The MBTOC/TEAP Recommendations**

The battle lines formed early, in Prague at the Thanksgiving, 2004, Meeting of the Parties. In fact, they formed well before Prague. U.S. State Department Deputy Assistant Secretary for the Environment Claudia A. McMurray sent an excellent formal letter to the Ozone Secretariat of the United Nations Environment Program, in which she argued effectively against the cuts that TEAP proposed. She said:

"We were surprised to find that the TEAP and its subsidiary body, the Methyl Bromide Technical Options Committee (MBTOC), took what appears to be an arbitrary approach in making recommendations for 2006 CUE requests.... The MBTOC/TEAP has reached very different conclusions from our technical experts regarding the amount of methyl bromide for which no

economically or technically feasible alternatives are available for U.S. users. However, it is unclear whether the MBTOC/TEAP recommendations are based primarily on an arbitrary 20% reduction factor or if there has been a more detailed analysis made for the specific crops and regions contained in the U.S. CUE request.... Most importantly, much of our analysis was based on a detailed review of whether alternatives were economically feasible. In a number of cases where an alternative may have been technically feasible, we found that the costs associated with use of that alternative were not viable from an economic standpoint. However, the MBTOC recommendation does not address our economic analysis, nor does it appear to include its own economic analysis. It is therefore unclear whether MBTOC has determined that alternatives are in fact economically feasible since this issue appears not to have been addressed."

The response? The official Report of the Prague meeting states:

"The co-chair of the Methyl Bromide Technical Options Committee [MBTOC] reported that the Committee had indeed imposed reductions in cases in which methyl bromide alternatives were available and there was no evidence of efforts to use them. Although in a number of cases the reduction amounted to 20 per cent, he assured the meeting that the committee did evaluate nominations individually and on their own merits." [Report, page 14, item 101]

However, despite those not-very-reassuring "assurances," no hard and fast data on the Committee's decisionmaking process were provided. MBTOC and TEAP conduct their reviews and decisionmaking in private, and do not give us any clue as to why they are making the reductions they are making.

The following quotation from the MBTOC/TEAP report on the CUE nominations is particularly revealing of the unscientific and biased nature of the MBTOC decisions:

"MBTOC assumed that an alternative demonstrated in one region of the world would be technically applicable in another unless there were obvious constraints to the contrary e.g., a very different climate or pest complex." [Report of the TEAP, October 2004, page 5]

This assumption is completely invalid and unjustified. This kind of "assumption" is not based on science – it is based on MBTOC's desire to simplify the process. The U.S. has provided detailed information on why certain alternatives available to third-world farmers will not work in the U.S. Not only do climate and pest complexes differ, but the economies differ. An alternative which might be economical in a developing country may not be usable in the U.S., where cost/profit margins are considerably slimmer and labor, environmental compliance, and chemical costs are very high.

**It is absolutely essential that MBTOC and TEAP provide open access to the bases for their decisions, and detailed rationales of their recommended cuts to the nominating party. Without understanding *why* MBTOC/TEAP are recommending cuts, it is impossible to answer or defend a nomination. Furthermore, under the current process no appeal is allowed. This practice clearly violates a scientific norm of question-and-answer and opportunity to rebut incorrect assumptions. U.S. industries are treated as "guilty until proven innocent" -- which is surely contrary to our rule of law.**

**B. The rumor that the U.S. simply requested "too much" methyl bromide is not relevant, although it is running the decision.**

At the Prague meetings, several developing nations, the EU, and U.S. environmental organizations spent significant amounts of time and energy putting pressure on MBTOC and the voting parties to force the U.S. to take arbitrary cuts, merely based on the fact that the U.S. "requested more methyl bromide than any other country." The discussions at the meetings suggested a 30 percent arbitrary cut for the U.S.

The terms of the Protocol require an applicant to show that it has searched for alternatives but that no technically feasible or economic alternatives exist. Of the 13 countries that submitted applications, the U.S. does have the largest request. The 24 commodities represented in the U.S. requests supplied sophisticated applications, detailed data justifying their requests, and demonstrated that alternatives currently do not exist although research continues.

**C. The negotiations at the Meeting of the Parties (for example, last fall in Prague) are political, not science-based.**

When questioned what its scientific reasoning was, MBTOC assured the U.S. that all scientific reasoning was used. When pressured, MBTOC stated that its decisions are conducted behind closed doors and no such justification is required to be given!

As noted above, the U.S. had nominated 37 percent of our 1991 baseline for the CUE uses. The E.U., particularly, supported by various other nations, were strongly arguing that the U.S. proposal should be reduced to 27 percent of baseline – overall. This reduction is simply because these countries' agenda is to phase out all methyl bromide -- even the CUE amounts. An across-the-board CUE reduction has no basis either in the treaty or in science.

Let me paint one picture for you of that meeting.

On the first day, the U.S. and E.U. official representatives (accompanied by three or four other countries' representatives) were sent into a side room, behind closed doors, to negotiate whether or not the U.S. should be allowed 37 percent, per its well-documented and scientifically justified request – or whether it should be arbitrarily reduced another 10 percent, to 27% of its baseline nomination!

The U.S. and E.U. spent four and one-half days of the five-day meeting behind closed doors negotiating this impasse. The U.S. State Department fought valiantly. We, as industry, were not allowed into the room. However, U.S. Congressional staff who were attending the meeting (not all of whom support our position), were allowed to participate. Thus, we, as industry, spent many, many hours sitting outside that room – while Congressional staff would race out to ask whether or not a specific negotiation point would “work” for U.S. industry. We would explain, as well as we could, to staff – and they would return to the closed negotiations with any information we could provide to help the U.S. government argue on our behalf.

Finally, in the final hour, the U.S. was forced to accept a compromise: the Parties approved the U.S. nomination at 27 percent of baseline, and the remaining 10 percent will be assessed at a one-day Extraordinary Meeting in conjunction in June, 2005. Will our voices be heard during that June meeting? Or will, once again, all decisions be made behind closed doors while the U.S. industry, its very survival at stake, sits outside the room?

It is worth noting that there are 180 parties to the Protocol – yet this decision was negotiated basically between the U.S. and the E.U. – the 178 other parties then simply accepted it.

**V. WHY THE CUE PROCESS IS NOT WORKING**

Obviously, several major problems are acting against U.S. interests with the U.N. body responsible for implementing the Montreal Protocol.

**A. U.S. CUE science-based applications are second-guessed at the international level, with no rationale being given. Decisions are made behind closed-doors, with no accountability, scientific justification, or opportunity for appeal.**

U.S. ornamentals growers joined together to file a joint application for the years 2005 and 2006. That application, which included about 100 pages of scientific data, was based on research reported in hundreds of refereed papers, and included as much information about growers' current needs and potential economic losses as was possible to obtain. It was prepared by Dr. Ann Chase, Professor Emeritus at the University of Florida, and Dr. Clyde Elmore, Professor Emeritus at the University of California -- active, fully-promoted scientists, at mid- to top-career. It is, in short, the best scholarly and most accurate application our industry could prepare.

EPA professionals worked diligently and at great length to ensure that the U.S. commodities' applications, including that of U.S. ornamentals growers, were accurate and complied with the terms of the Protocol.

The U.S. ornamentals application clearly demonstrated all that is required by the treaty: that we have tried to find alternatives, but that no practicable or economical alternatives are available and that, therefore, growers must rely on methyl bromide. Therefore, U.S. growers are entitled to the scientifically justified amount requested. MBTOC has not given any scientific reasoning for its "inability to assess" (a de facto 100% cut, at this point) of the US ornamentals industry's application.

Note that countries such as Italy, Spain, and even Israel did receive allocations for cut flowers. Unlike most other U.S. industries -- *and unlike our international competitors, whose much-less-complete applications appear to have been granted without question* -- the U.S. ornamentals industry, almost through the 1st quarter of 2005, is completely in doubt about whether our 2006 request will be met.

MBTOC came back to EPA with a series of questions which very clearly indicate that they either cannot, or do not want to, understand the complexity of the flower industry. Since several members of MBTOC had actually toured our farm, along with others in California, they should have a clear idea of the complexity of growing operations and of why our industry finds it difficult to submit an application that provides boilerplate, "one-size-fits-all" information of the huge variety of crops and diversity of planting times, locations, and pest problems for each. Therefore, we can only assume that the more information we provide them, the more questions MBTOC will ask -- not because of their desire for clearer science, but because of their desire to find reasons to cut or even reject our application.

EPA came back to our industry for help in answering MBTOC's questions. The U.S. has now included another amplified version of our request in its submission to MBTOC. The MBTOC/TEAP are supposed to be meeting in April to determine the fate of the ornamentals industry's 2006 application. Apparently, based on their recommendation, the U.S. State Department will be given the opportunity to argue on our behalf at the "Extraordinary Meeting" of the parties. We are very, very, very worried about the potential outcome, based on previous experience with this "process."

**Perhaps the most troublesome aspect of this whole story is that our competitors in other countries, who, we understand, submitted much less complete and detailed nominations, were granted their requests without further questions during the Fall, 2004 Prague meeting. And our major competitors in third-world countries will continue to have methyl bromide available for their usage for several years. U.S. growers, in an increasingly international**



**economy, need better and better tools to remain competitive. Instead, we are being forced to accept less effective production tools.**

**B. The CUE process as currently outlined and administered is unnecessarily burdensome, both on U.S. growers and on the U.S. government. U.S. efforts to implement a multi-year CUE process have been unsuccessful.**

As can be seen from the above discussion, the application process as complied with by the U.S. is extremely burdensome and complex. Hundreds of hours of both industry and government time are spent in collecting and analyzing information. It is impossible to determine whether or not MBTOC and TEAP even consider all of the information submitted – in fact, it would strongly appear that they do not.

The CUE process must be repeated every year – presumably, because someone hopes that every year will bring new alternatives which will result in great reductions in our need for methyl bromide.

Complying with the process is extremely burdensome for U.S. industry and EPA. It is expensive and time-consuming. And, of course, the decisions at the international level appear to be made not on the applications, anyway, but on a predetermined agenda.

The application process must move to a multi-year process.

**C. U.S. nominations are well thought-out and, in fact, are held up as examples for other nations. Yet our requests are cut, while our competitors in other countries are approved.**

The U.S. applications are widely regarded as being the most complete and detailed of those of any of the other countries. Yet the more information that the U.S. supplies, the more it is questioned, challenged, and undermined by the arbitrary and non-science based agendas of our competitors.

On the contrary, however, those same countries who are told to improve the quality of their applications by emulating the U.S. are *receiving* large allocations of methyl bromide.

The Parties recognized inconsistencies, saying:

“When MBTOC makes differentiated recommendations on nominations that cover the same use, it should clearly explain why one country’s nomination is being treated differently than the nominations of other countries ... thus eliminating unjustified inconsistencies in assessments and ensuring equal treatment of nominations.” [Report, page 79, Item 7.33]

Without knowing the bases on which a country’s application was submitted, it is difficult to compare. However, Israel, just as an example, requested and received 77 metric tons for its cut flowers (open field) sector in 2005, and requested and received 67 metric tons for 2006. For “protected” cut flowers, Israel requested 303 metric tons for 2006, and MBTOC cut the recommendation to 240 metric tons, suggesting “a reduction of 20% for the 2006 CUN ... to allow for orderly phase-in of alternatives.” Note that the entire U.S. ornamentals application, which is still considered “unable to assess” is for only 162.817 metric tons. – about half of the total received by Israel in 2006. Italy’s nomination for protected cut flowers-bulbs of 250 metric tons was reduced by MBTOC to 187 metric tons – still more than the entire U.S. ornamentals application. [TEAP Report, October, 2004]

**D. Decisions appear to defer to the idea that CUEs should decline over a period of years until they reach zero. The Montreal Protocol does not in any way justify that concept or goal.**

The bottom line at Prague was that the U.S. finally was forced into a compromise for the 2006 nominations. The compromise which the U.S. was finally forced to accept: 27% of baseline for 2006, and a chance to argue further at an "Extraordinary Meeting of the Parties" before this summer's meeting in Montreal. In other words, we still have to argue, even with the thousands of pages of well-researched information we have given the international body, for that additional 10%.

Why? Because there are forces in the international body who are determined that the CUE process should be a declining process -- in other words, no matter what kinds of industry changes, what kind of pest pressure, what kinds of crop patterns -- we should reduce **the amount of methyl bromide to which we are entitled under the CUE process**, year by year, until all methyl bromide use is eliminated. Participants in the Science symposium noted, for example, that

"... there was a risk that the gains achieved to date in the reduction of methyl bromide might be negated by increases in emissions from exempted uses, including quarantine, pre-shipment and critical use.... "

MBTOC/TEAP stated in their October 2004 Report that:

"... each Party that makes a critical-use nomination after 2005 has to submit a national management strategy for its methyl bromide phase-out ... [including] estimates of annual market penetration of alternatives to bring forward the time when it is estimated that methyl bromide consumption for such uses can be reduced and/or ultimately eliminated....

"Where there was no change in quantity of methyl bromide used based on historical data and in the temporary absence of such detailed management plans, TEAP and its MBTOC adopted an interim standardized phase-in schedule ... for nominations where MBTOC recognized existing technically feasible alternatives were available...In instances where technically feasible alternatives were available, MBTOC typically suggested a 10-20% reduction factor...." [TEAP Report, October 2004, page 10, emphasis supplied]

Note that that parties' decision requires only a national management strategy – it does *not require* that a country actually eliminate methyl bromide uses if alternatives are not available.

Yet MBTOC is, based on its decision that existing alternatives are available, imposing a 10-20% reduction factor! The parties' CUEs specifically say whether or not existing alternatives are available, and what they are doing to implement them. Yet MBTOC, in addition to the party's own reduction efforts, is imposing its judgment as to whether or not alternatives are available, and imposing that 10-20% reduction factor.

Several of the parties vigorously objected to this practice during the meeting, and the Report of the Prague meeting states:

"A number of Parties felt that imposition of a 20 per cent reduction ... could be understood as an attempt by the Methyl Bromide Technical Options Committee to recommend a policy. They strongly expressed the view that the Committee had strayed from its mandate to provide technical assessments and to restrict itself to evaluating nominations according to the criteria laid down in the relevant decisions of the Parties...." [Report of the 16th Meeting, page 14, item 100]

As noted earlier, it is the clear intent of some to force a year-by-year decline in CUEs approved by the Parties. Such discussions and goals are contrary to the Treaty. The Treaty provides for the

Critical Use Exemptions in cases where practicable and economical alternatives do not exist. The Treaty does *not* provide that CUEs should decline year by year.

Our industry, and the U.S. government, have spent hundreds of thousands of dollars on research for methyl bromide alternatives over the past 20 years -- yet *no* alternative has yet been found which will allow growers to economically and practically replace the use of methyl bromide in their complex and ever-changing growing operations. Thus, under the terms of the Montreal Protocol, we must still be allowed to use methyl bromide. A "decline" in CUEs is not required by the Treaty.

**E. Specific concepts concerning the elimination of emissions and the use of carryover stocks must be carefully examined and dealt with.**

It is worrisome that some continue to argue that nations' allocations should be reduced by any methyl bromide stocks that the party might have on hand. That concept is not contained in the Treaty, and the U.S. must continue to argue strongly against its attempted introduction.

Similarly, we would suggest that since the intent of the Treaty is to reduce or eliminate emissions, then if it can be shown that by use of cover films or tarping, emissions are being reduced, methyl bromide should continue to be allowed.

**VI. CONCLUSION**

The discussion and stated agenda at the international meetings is the CUE process. However, the underlying agenda, for many of the participants, is completely different -- *and has nothing to do with the Montreal Protocol treaty.*

Two examples:

Europe. Several northern European countries have banned the use of methyl bromide. Thus, crops which still require methyl bromide have moved into southern Europe or into third-world countries. Even if the product is produced in a third-world country on a farm owned, from a distance, by a European company, that third-world country can continue to use methyl bromide until 2015. Thus, the U.S. grower *who wants to keep production in the U.S.* is at a competitive disadvantage. Northern European countries are arguing vigorously against U.S. applications for methyl bromide use -- based, in many cases, on their own ability to obtain a competitive advantage by doing so.

China: China is on record as being in favor of banning the production of methyl bromide. It should be noted that China is also moving toward becoming a major producer of horticultural crops *and* of methyl bromide.

The U.S. industry has fulfilled the terms of the Montreal Protocol. It is in compliance.

**The fact is that decisions are apparently being made by the international treaty body, not based on the complexity of our industry or on the full information we have provided in the CUE application, but on a predetermined goal of "getting us to zero use." Getting U.S. agriculture to "zero use" is not required by the Montreal Protocol. All that compliance with this treaty requires is that the industry be without economic and practical alternatives.**

The CUE process is not working, and U.S. industry is in danger of becoming uncompetitive as a result. We are NOT receiving the exemptions we need. It is time for this Committee to provide legislative insistence that will support U.S. growers.

The United States government must support the U.S. agricultural economy in ensuring that methyl bromide remains available to growers, until suitable alternatives are found and can be implemented. We cannot simply bow to decisions which appear to be predetermined and which will put our agricultural sector at a very significant competitive disadvantage in the international marketplace. The phaseout of methyl bromide is a critical issue for U.S. agriculture, and we respectfully request this Committee for support and assistance in reaching a reasonable solution to what is rapidly becoming a crisis for many producers, and the workers they employ across the United States.

